Literary Cabinet.

Si non tantus fructus perciperetur ex his studiis, quantum percipi constat, sed ex his delectatio sola peteretur; tamen hæc animi remissio judicanda esset libero homine dignissima. CICERO.

VOL. I.] YALE COLLEGE, SATURDAY, JAN. 10, 1807. [No. 5.

CONDITIONS.

I. THIS Paper will be under the direction of Editors, chosen from the Senior Class.

II. It will be published once a fortnight, on a half sheet, in the octavo form.

III. Its price will be *One Dollar* per annum—*Fifty Cents* to be paid in advance.

IV. Persons not living in this city must pay the whole subscription *in advance.*

The Essayist.

No. III.

"Permultorum exemplorum et nostra plena est respublica, et omnia regna, omnesque populi, cunctæque gentes, angurum prædictis multa incredibiliter vera cecidisse."

Cic. de Leg.

THE knowledge which we have of things past, by our memory, is as unaccountable as an immediate knowledge would be of things to come. The tones of melody that yesterday charmed us, died away upon the breeze, and are gone. *How* is it, that the solemn peal still vibrates on our ear, and agitates the soul? We find in our minds a distinct conception of a series of past events. But do we know how this is produced? We call it memory. But this is only giving t a name:—it is not an account of its cause. We know not the cause:—we know the fact only. Should we, therefore, in our elevated moments, when every faculty is alert, and every function is performed with energy, cast our eyes forward along the vale of time, and think we discern, through the mist that mantles the prospect, a few objects that are hereafter to obstruct our way, or hasten our progress, let no one enquire, *how* we foresee what does not yet exist, lest we enquire in return, *how* the objects that have disheartened or cheered us in our past pilgrimage, though they have long since ceased to be, continue still to pain or delight us.

I need not, however, dwell longer upon the objection to the existence of prescience, grounded on the impossibility of accounting for it: thousands of facts we daily witness, the cause of whose existence we are unable to assign.

It will be my object, in the re-

maining part of this number, to prove, that man has, at times, a knowledge of future things.

I might adduce the argument derived from the general belief of this fact. I cannot however consider it as conclusive. The belief of the occasional appearance of the shades of departed men, is almost universal; yet many would consider it as an insult to their understanding, to be called upon to believe in the existence of ghosts, upon evidence so weak.

With some, the argument might have weight. Of the universality of this belief, such may be convinced by a reference to history and observation. I need not spend time in citing historians. It is well known, that, in all ancient nations, oracles and prophets gained unreserved credit.

Every observer must have remarked, how generally it is believed, in modern times, that persons frequently foreknow and foretell their deaths. Thus it is stated, (and who does not credit it?) that "Prince Louis Ferdinand," who was lately slain in the battle of Saalfield, "had some prediction of his fate previous to his leaving Berlin, which he mentioned to his friends, and which induced him to make his will." How often do we hear of the presentiment of good or bad fortune, which is eventually realised, tho' not to be expected in the ordinary course of events, and, therefore, not the subject of enquiry! I do not allude to those senseless anticipations of evil, grounded on the spilling of salt or the tickings of a death-watch, the hearing of strange noises, or the occurrence of strange sights; but to sober presentiments of future things, too forcible to be resisted, and as clear and distinct as the perceptions of things present and existing.

A few well authenticated facts will prove the point I wish to establish, more clearly than any argument that can be adduced.

The predictions in the scriptures, every one knows. On them I need not dwell.

Vettius Valens, before the Christian Era, predicted the fall of the Roman Empire, at the end of 1200 years from the foundation of the city. "The majesty of the Western Empire, (of which Rome was the capital) did indeed expire under the merciless hands of the Goths, about the time limited by this augural prophet."—Quotations supporting this fact might be made, but would occupy too much of the Cabinet.

Seneca, in the reign of Nero, predicted the discovery of America in terms more clear and unequivocal, than those in which most of the prophecies of scripture are expressed.

——"venient annis
Secula seris, quibus Oceanus
Vincula rerum laxet, et ingens
Pateat tellus, Tiphysque novos
Detegat orbes; nec sit in terris
Ultima Thule."

MEDEA.

The prediction was delivered 1400 years before the event.

Sir Sidney Smith felt, *when a youth*, a singular prepossession of his fame, and the theatre of his future glory. Being sent some years since, on shore upon the Irish coast with a brother officer, to look for some deserters from their ship, after a long, fatiguing, and fruitless pursuit, they halted at a little inn to refresh themselves; having dined, Sir Sidney on a sudden became silent, and seemed lost in meditation: "My dirk for your thoughts," exclaim-

ed his friend, gently tapping him on the shoulder; "what project, Sidney, has got possession of you now?" "My good fellow," replied the young warrior, his expressive countenance brightening as he spoke, "you will no doubt suppose me a little disordered in my mind, but I have been thinking that, before twelve years shall have rolled over my head, I shall make the British arms triumphant in *Holy Land*."

[Carr's Northern Summer.]

This took place long before the invasion of Egypt by the French, when nothing in the state of the political world could lead him to anticipate the glory of Acre.

I shall conclude this number with an instance, with which many of the students of this College are well acquainted. I allude to the case of the amiable *Welton*, whose afflicting death we were, not long since, unexpectedly called to witness and lament.

On the 5th of January, 1806, he returned from public worship, and composed an account of his religious exercises in various periods of his life. He concludes his account with the following remarkable words:—"Finally it appears to me that this paper will fall into the hands of some one, either after I am *crazy, or after I am gone to the shades, which it seems to me will happen soon.*" Though in perfect health, when this was composed, he was suddenly taken ill on the 14th of February following: was soon *deprived of his reason, and died on the 18th.*

I must request my readers not to overlook, in the emotions of friendship, the evidence of *Prescience* which this case affords.

SPINOZA.

On the Profession of Law.

No. IV.

A VERY material enquiry here arises, in the mind of every man attached to the blessings of civil government. How are we to obtain laws, if we are to be deprived of lawyers? This is an enquiry, which cannot be properly and understandingly answered, without supposing the absolute necessity of the profession.

In the first place, laws cannot be so enacted as to suit the objects for which they were made, or subserve any valuable purpose, unless they are penned by men, who have long been engaged in pursuits of this kind; by men who have been taught by experience to weigh and examine the precise import and operation of every word, as well as to ponder upon the united construction of a whole statute. It is by no means an easy matter to avoid ambiguity and contradiction, in a complicated ordinance, affecting the interests of a numerous and widespread people. Were we to judge from common observation, we should, to be sure, think there was no difficulty in making laws. Tens of thousands might be found, in almost every country, who would express no distrust of their talents in this particular.—But what sort of laws would they make? If honest in their intentions, they might possibly legislate for a country village, for a gang of Mohawks, or a horde of Tartars; pretty clumsily, however, at the best. But for such men to think of protecting and preserving to its owners an extensive landed property, of creating a revenue, of regulating a commerce as extensive as the globe, of restraining the vicious

propensities of men, and of punishing crimes against the state, would be mad presumption and consummate folly. They have no resources that could enable them to make any thing like a single wise law. In Great Britain, it has been thought enough to immortalize a man, to have framed a Habeas Corpus Act, an Act of Bankruptcy, or a Navigation Act; and it will be so thought wherever it is considered, how great is the object, and how vast the knowledge requisite on such an occasion.

Again, though we had statutes ever so wisely framed, they never could be consistently and systematically explained, and their meaning fully settled, without the intervention of Lawyers.—After a few years have passed, and the relative situation of things has become somewhat changed, it is often no easy matter to find the meaning of the legislature. And here let it be observed, that no human prevention is sufficient to guard against all the deficiencies and ambiguities of human language. Not unfrequently an excess of caution overburdens the subject, and produces doubts.—After proper diligence and care, it is the duty of a legislature to leave the explanation of their laws to an intelligent and upright Court. But when questions arise, it is frequently necessary that they should be seen in all the light, which deep learning, and a thorough investigation, are able to throw upon them. The law, as it was, before the doubtful statute was made, the mischief which was designed to be prevented, the remedy which was meant to be applied, the common and the technical force of the words and phrases made use of, the probable effect of every construction, and many other things, ought to be fully presented to the mind. How should this be done? Would the Judge be at this trouble, when his only auditors would be ignorant litigants, and his decision perish the moment it was uttered? It is plain he would take an easier course. With no very enlarged views, he would endeavour to do what might appear *about right*, (as is commonly said,) according to the circumstances of the case before him; a principle which makes sad havoc in any system of jurisprudence where it is introduced. But why do I talk of system? We should have no such thing. All would be resolved, to use an expression of Sir William Jones, into 'that tremendous power, the discretion of the judge.' And this, not the discretion of a great man, considering his decision as the rule of conduct for millions, and under all this weight of responsibility looking forward for the approbation of posterity and mankind; but the narrow discretion, the ephemeral policy of a man, who thinks of nothing but the present parties, and who dictates his crude decrees to a rabble in such language as a rabble may understand.

As reports of cases are made almost solely by the labours and at the expence of lawyers, it is obvious they would never come into existence by any other means. Thus every thing would tend to the introduction of ignorance and confusion, where ought to reign science and harmony. What was a crime in one province, would be perfect innocence in another. What was recognized as law last year, would be rejected this; and it would take an astrologer to tell what

doctrine would be the *fashion* of the next. All these things would furnish abundant opportunity for party considerations to operate. There would be no difficulty in finding law which would bend to the overgrown influence of the great, or fall down and worship the mad ravings of the populace. The removal of a firm judge, the acquittal of a popular villain, and the condemnation of an innocent man, obnoxious perhaps on account of his virtues, could be easily obtained. Many a sufferer would place his ruin to the credit of insolent pride, and unfeeling power; many a victim would be sacrificed, under the mockery of a legal trial, to appease that all-devouring monster an outrageous mob. Then would be realized that solemn declaration, *Ubi lex est vaga et incerta, ibi miserrima servitus.*

In a former number, I mentioned the injustice of denying any man the assistance of a lawyer, in a case where property is concerned. The observation applies with increased force in a criminal proceeding. Shall a man be dragged before a tribunal, with the forms of which he is utterly unacquainted, on a charge affecting his liberty, his reputation, or his life, and be brought to trial without any one to stand by his side, to see that he has a fair hearing, or to state the circumstances in his favour, which he is too much terrified and confused to relate himself? Is a man, though ever so able, in a proper condition to depend on his own strength, when anxious for his safety, depressed by the apprehensions of his friends, ignorant of the testimony to be adduced against him, and trembling for the event of the trial? Nobody could wish himself to be tried in such a manner. This certainly did not appear a light affair, when it was made a part of the Constitution of the United States, that in every criminal prosecution, 'theaccused should have the asisstance of counsel for his defence.'

These are all the arguments which I think it necessary to advance in favour of a profession so well able at all times to defend itself. Till these are refuted, they are sufficient.

It will possibly be said, that I have fallen into a common error, that of magnifying my subject, by insisting upon the great importance of having legal characters in society. But let it be observed, that I derogate from the importance of no other class of men. How many members of the human body are there, all necessary to the health and perfection of the frame? So in communities; without the farmer, nations would be depopulated; without the merchant, industry would cease, and a great proportion of the people fall into idleness, want, vice, and barbarism; without rulers, no one could enjoy what he had gained, nor receive the least inducement to exertion; and without courts beneficially managed, all the other powers of government would be feeble and ineffectual. Indeed, civil government is so necessary to all the hopes of man here and hereafter, that even the Gospel of Peace could not be preached, but with very faint prospects of success among loose and wandering barbarians. Of this assertion, the almost insuperable difficulties by which the Missionaries among the Heathen, have been retarded in their benevolent undertakings, are a sufficient proof.

To those, then, who deny the utility of lawyers, I would address the language of St. Paul—"*The body is not one member, but many;*" "*And the eye cannot say unto to the hand, I have no need of thee.*"

As there are many objections to the Profession of the Law, which I have not animadverted upon, and which are thought by the objectors to have much force, I shall probably examine them in some future discussion.

COKE.

[*To be continued.*]

TO THE EDITORS OF THE LITERARY CABINET.

AS it is probably one object of your publication, to promote criticism; and as a most essential preparatory step to all other critical knowledge, is an accurate acquaintance with words; I take the liberty to request that some of your correspondents would state the difference, if any, between the following Latin words, which are usually considered as synonymous, or at least translated into the same English words—

Dubius and anceps:—Gens and natio;—Priscus, vetus and antiquus:—Mæstitia and Ærumna:—Clypeum and scutum:—Mænia, murus, paries, and vallum:—Urbs and civitas:—Certamen, prœlium, and pugna:—Strages and cædes:—Rupes and saxum:—Domus and tectum:—Castra and stativa:—Vis and robur:—Porta and fores:—Populus and plebs:—Terra and humus:—Ora and littus:—Mora and cunctatio.

INVESTIGATOR.

Congress of Fashion.

LOWER HOUSE.

FRIDAY, December 26.

MR. ROUGHCHIN from the committee to whom was referred the petition of Mr. *Smoothface*, stating that he could not *naturally* comply with the law requiring long beards, and praying for leave to wear a wig under his chin, made a report favourable to the prayer of the petitioner, in which the house concurred.

An engrossed bill to suspend, till the first of March, the operation of an Act, entitled "An Act for abolishing the present form of dress among Ladies of Fashion, and reducing it as near, as modern manners will permit, to the primitive custom of our first mother Eve," was read a third time and passed.

Ordered, that Mr. *Gobetween* carry said bill to the house of ladies, and request their concurrence.

An engrossed bill, to authorise the wearing of cues one inch long, was read a third time, and passed.

The order of the day was called on the bill, prescribing an uniformity of dress, as it respects the *higher* and *lower* classes of females.

Mr. *Level* advocated the bill, on the ground of its congeniality to republican principles.

Mr. *Doglady* held up one foot and said—the house might be convinced, by his stockings, of the evils of this practice—he had trodden into a gutter, as he was following an elegant lady, back of her house, into the kitchen.

Mr. *Sneer* thought the lady might have been polite enough to put Mr. Doglady into her wash-tub.

Mr. *Satiric* was very sorry, if the *parlour-lady* could not be distinguished from the *kitchen-lady*, except by the difference of her dress. The bill passed almost without a division.

Mr. *Shad* presented a petition of sundry Fishermen, praying

for a law to prevent the wearing of fishing-nets round the neck. Referred to the committee of commerce and manufactures.

Mr. *Cable* presented a *counter* petition of sundry Rope-makers. Referred to the same committee.

A message was received from the House of Ladies, requesting the concurrence of the Lower House in a bill authorising the use of a new instrument, similar in operation to the boot-jack, in drawing off petticoats. Whereupon the said bill was immediately referred to the whole house.—Mr. *Flannel* in the chair.

Mr. *Pullgown* stated that he was obliged to spend the greater part of every long winter evening in helping his lady draw off her gown, &c.—that he was often obliged to send to his neighbour, Mr. *Cobler*, for a pair of pincers, with which to get hold of the same—with divers other vexations of a like nature. Wherefore he moved the concurrence of the committee. The committee concurred and rose—the house passed the bill, and adjourned.

TO CORRESPONDENTS.

SPINOZA will excuse us for making him an ESSAYIST this week. We omitted the Essay which was prepared, that we might make room for his piece. He is requested to favour us with more of his very ingenious speculations. Indeed, we see them already enhancing the value of some future paper. *Verbum sapienti.*

INVESTIGATOR is respectfully solicited to continue his favours.

The Bower.

.....Sometimes
We bid bright Fiction to resemble Truth,
And sometimes speak what Truth herself approves.

HES. THEOG.

MESSRS. EDITORS,

Should the following make any interchange of colour in the Bower, you are welcome to give it a place in your paper.

VARIETIES OF O-DEAR.

NO Muse I call; no book peruse
To sooth my reader's ear;
I simply sing the various use
Of two short words, O-dear.

When rustic pair for Hymen meet,
He says, with honest air,
"Indeed! my love? so passing sweet"—
She frowns, he sighs, "O-dear!"

But pausing, quickly he subjoins,
"Dear Molly, know and hear,
"Tho' me to woe your eye consigns,
"I'll love you still, O-dear!"

Her melting soul at length relents,
And faint, perhaps through fear,
She blushes, stammers, half repents,
Unconscious sighs, "O-dear!"

But soon recovering from surprize,
She says—"I felt so queer,
"I scarce could speak amid my sighs;"
Yet stops to sigh "O-dear!"

No optics yet I ween could see
Arch Cupid's ways so clear,
As when *ab imo pectore*
He sends forth this O-dear.

Think now, when Nepture rages high,
And clashing billows jar,
When darkness curtains round the sky,
How sailors cry "O dear!"

Next then to Newgate turn the eye,
See hideous guilt appear,
And you will doubt which first to cry,
"O justice!" or "O-dear!"

Should this distress your pity rouse,
Turn from the prisoner there:

Go and console his mourning spouse,
Now left to sigh " O-dear !"

Go brighten up his parents' eyes,
Go sympathise with years,
Go sooth those weeping babes of his,
That sob in faint " O-dears !"

Affliction too has much to boast
In causing many a prayer,
But truth asserts she's worshipped most
For gendering this O-dear !

Now comes a different actress near—
Contempt struts haughty by
And just accosted—" La ! O-dear !"
Her scornful lips reply.

Contempt a rival quickly found,
Deceit in love, drew near,
Her languid eyes she roll'd around,
And sigh'd th' unfelt O-dear.

Next affectation comes in sight—
She totters on with fear,
And pale from sitting up at night,
Scarce forces out " O-dear !"

A slight cough once *pulmone exiit*,
A drop of blood was seen,
" O-dear ! I'm gone, I'll change my diet,"
Cried she, " what can this mean !"

Vain my attempt, and vain the tongue
That would describe her fear—
To thee alone I yield my song,
And add my own " O-dear !"

METIUS.

THE KISS.

DID I but the power possess,
Which Genius on Horace bestow'd,
To tell a poor poet's distress ;
And name every source whence it flow'd ;

How willingly would I rehearse,
What ne'er was related before,
The vile prostitution of verse
And spleen which characterize Moore.

But nature, that partial old dame,
Forbids me the task to attempt ;
Lest, covered with merited shame,
My rashness I e'er should repent.

One action however I'll tell,
The consequence be what it may ;
And may it in memory dwell,
'Till night shall be turned into day.

While through the thick wilds of the west,
Impelled by the love of the chase
He wandered—the rich planter's guest,
Nor heeded the gloom of the place.

A noise on a sudden he heard :
He started—his piece was prepar'd ;
When lo ! not a beast, nor a bird,
But an Indian damsel, appear'd.

Disordered through fear and surprize,
He trembled, nor ventured to speak ;
But when she, with peace in her eyes,
Had asked what the stranger might seek ?
He bow'd, and "fair maiden," he cry'd,
" Tell me in what parts do I roam ;
" O do not my ignorance chide,
" But show me the way to my home.

" In return for this favour, I'll give
" A present—the like ne'er was known,
" Which long shall *Columbia* survive,
" And gain for me endless renown ;

" This beautiful book, which you see
" All figur'd so gaily without,
" Was lately translated by me,
" Though sung by an old Grecian lout.

" Within 'tis likewise very fine ;
" Behold these two beautiful heads,
" The one with the cue on is mine,
" The Greek's is encircled with weeds."

"Enough," said the squaw, " it is done,
" So, lest I the bargain should miss,
" And thus be the sport of your fun,
"We'll seal it," cry'd MOORE, "with A KISS."

EDGAR.

CHARADE.

MY first, to certain bounds confin'd,
Most useful is to all that move ;
But when let loose, all plagues combin'd,
A greater curse would hardly prove.

To deck a beauty, or to guard
The Miser's god, my second deigns.
My whole, when war's shrill trump is heard,
With slaughtered armies spreads the plains.

P.

☞ *A Solution is requested.*

Printed for the Editors, by O. Steele & Co. at the Herald Office, New-Haven.